

UNITED STATES DISTRICT COURT  
NORTHERN DISTRICT OF CALIFORNIACARLOS HENDON,  
Petitioner,

v.

ROBERT BURTON,  
Respondent.

Case No. 5:21-CV-06576 EJD (PR)

**ORDER OF DISMISSAL**

Petitioner, a California state prisoner, filed a *pro se* petition for a writ of habeas corpus under 28 U.S.C. § 2254, challenging his state conviction out of Santa Clara County Superior Court. Petitioner filed the petition in the Eastern District of California, which transferred the matter to this district on August 25, 2021. Dkt. No. 4. On the same day, the Clerk of the Court sent Petitioner a notice that the action was deficient because he did not pay the filing fee or file an in forma pauperis (“IFP”) application. Dkt. No. 5. Petitioner was also sent a notice that the matter was assigned to a magistrate judge, and that he must file consent or decline to proceed before a magistrate judge. Dkt. No. 6. Both notices stated that Petitioner must respond within twenty-eight days. Dkt. Nos. 5, 6. On September 20, 2021, the matter was reassigned to the Undersigned. Dkt. Nos. 7, 8.

On September 27, 2021, mail sent to Petitioner was returned as undelivered, with

1 the indication on the envelopes that the mail had been “Refused.” Dkt. Nos. 9, 10. In the  
2 interest of justice, the Court directed the Clerk to mail another copy of the Clerk’s notice  
3 regarding the filing fee to Petitioner, who was granted an extension of time to respond on  
4 November 29, 2021. Dkt. No. 11. Plaintiff was advised that failure to file a timely  
5 response to the Clerk’s notice, i.e., within twenty-eight (28) days from the date the order  
6 was filed, would result in the dismissal of this action without prejudice for failure to pay  
7 the filing fee. Id. at 2.

8 That deadline has long since passed with no further communication from Plaintiff.  
9 Nor has any mail from the court been returned as undeliverable. Accordingly, the action is  
10 **DISMISSED** without prejudice for failure to pay the filing fee.

11 **IT IS SO ORDERED.**

12 Dated: January 24, 2022



EDWARD J. DAVILA  
United States District Judge